

Exhibit 3: Conservancy June 25, 2001 Authorization

LOS CERRITOS WETLANDS ACQUISITION

Agenda Item XXXV.

June 25, 2001

COASTAL CONSERVANCY

Project Summary
June 25, 2001

LOS CERRITOS WETLANDS ACQUISITION

File No. 98-015
Project Manager: Melanie Denninger

RECOMMENDED ACTION: Approval of the Los Cerritos Wetlands Enhancement Plan and authorization to disburse up to \$11,400,000 for the acquisition of property in the City of Long Beach and related costs.

LOCATION: In the coastal zone on the southeast border of the City of Long Beach, just inland of Pacific Coast Highway (Exhibit 1)

PROGRAM CATEGORY: Resource Enhancement

ESTIMATED COST: Coastal Conservancy:	
Appropriation for Los Cerritos	\$11,000,000
Appropriation for So. Cal. Wetlands Recovery Project	400,000
Non-State match for Los Cerritos General Fund monies*	<u>11,000,000</u>
TOTAL**	\$22,400,000

* The FY 2000/01 appropriation to the Conservancy of \$11,000,000 from the General Fund for "Los Cerritos Wetlands Acquisition or Restoration" requires a 1:1 match from a non-State source.

** As is discussed in the accompanying staff report, additional funds will be needed to complete all of the property acquisition and habitat restoration at Los Cerritos.

PROJECT SUMMARY: With some 700 acres of potential coastal wetland habitat, the Los Cerritos Wetlands complex presents one of the largest wetland restoration opportunities in southern California. The Southern California Wetlands Recovery Project has named it a priority for acquisition for the last two years. Until recently, the owners of private property at Los Cerritos were pursuing development proposals, while continuing to operate the oil field

that occupies much of the complex. Now, each of the three major landowners is negotiating the sale of their respective properties for wetland restoration.

In 1999, the Conservancy entered into an option agreement to purchase one of these properties, that held by Bixby Ranch Company. The option expired in December 2000 without the opportunity to exercise because one of the option terms could not be met. That term provided that if Bixby could not obtain a Coastal Commission permit for exploratory drilling on the property, then it did not have to perform on other terms critical to the Conservancy.

During the option period, the Trust for Public Land (TPL) became engaged in promising discussions with the owners of the adjacent Bryant property regarding acquisition for wetland restoration. In order to avoid the possibility of conflicting negotiations, Conservancy staff thought it prudent to step aside and allow TPL to negotiate both acquisitions. The Wildlife Conservation Board is in negotiations for purchase of the third major private property at Los Cerritos, which is owned by the Hellman Ranch Company.

Meanwhile, last May the Governor proposed an addition of \$11 million from the General Fund to the Conservancy's FY 2000/01 budget for "Los Cerritos wetlands acquisition or restoration." The Legislature approved the appropriation, which includes a stipulation that the funds be matched by non-State monies. The Ports of Long Beach and Los Angeles are prospects for providing the match. Both are still very interested in obtaining mitigation credit through restoration at Los Cerritos and, as with the former option agreement, are being factored into the negotiations. Federal funds and the proceeds of a settlement agreement are other possible sources of matching funds.

Staff is recommending that the Conservancy approve the Los Cerritos Wetlands Enhancement Plan, which recommends acquisition of privately-owned properties in order to enable wetland restoration. Staff is also recommending authorization of a grant of \$11,200,000 to TPL for acquisitions at Los Cerritos and for related costs, with disbursement of \$11,000,000 conditioned upon obtaining non-State matching funds. In addition, staff recommends that the Conservancy authorize disbursement of up to \$200,000 for conducting any necessary related technical studies. As was the case under the former option agreement, the anticipated titleholder would be the State Lands Commission.

COASTAL CONSERVANCY

Staff Recommendation
June 25, 2001

LOS CERRITOS WETLANDS ACQUISITION

File No. 98-015
Project Manager: Melanie Denninger

STAFF

RECOMMENDATION: Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Sections 31251-31270 of the Public Resources Code:

“The State Coastal Conservancy hereby approves the Los Cerritos Wetlands Enhancement Plan, attached to the accompanying staff recommendation as its Exhibit 2, and authorizes disbursement of an amount not to exceed eleven million two hundred thousand dollars (\$11,200,000) to the Trust for Public Land (TPL) for acquisition of properties within the Los Cerritos Wetlands complex in the Cities of Long Beach and Seal Beach, and for costs associated with accomplishing the acquisitions; and authorizes disbursement of an additional two hundred thousand dollars (\$200,000) for any technical studies needed to accomplish the acquisitions, subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds to TPL,
 - a. TPL shall submit for the review and written approval of the Executive Officer:
 - i. The names and qualifications of any subcontractors that TPL intends to employ to assist with accomplishing the acquisition; and
 - ii. A work program, budget and schedule for accomplishing the acquisition; and
 - b. Conservancy staff shall forward the Los Cerritos Wetlands Enhancement Plan to the Coastal Commission for its review and consideration; and
2. No funds shall be disbursed for the acquisition of property without Conservancy authorization of the specific interest(s) to be acquired. Such authorization will re-

quire a 1:1 match with non-State funds and be subject to the requirements of Public Resources Code Section 31116(b)."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project would be consistent with Chapter 6 (Resource Enhancement) of the Conservancy's enabling legislation (Division 21 of the Public Resources Code);
2. The proposed project would be consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001; and
3. The Trust for Public Land is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, and having among its principle purposes the preservation of land for educational, recreational and open space opportunities."

STAFF DISCUSSION:

Project Description: **Introduction**

The goal of the Los Cerritos Wetlands Acquisition project is to assemble properties in order to enable restoration of intertidal wetlands and related habitat. The recommended project has two components, approval of the Los Cerritos Wetlands Enhancement Plan and acquisition of private property.

Enhancement Plan

Staff prepared the Los Cerritos Wetlands Enhancement Plan (Exhibit 2) to provide an administrative context for acquisition of existing and historic wetlands. The plan recommends acquisition of the some 400 acres of privately-owned property within the Los Cerritos Wetlands complex in order to make the area available for restoration of fish and wildlife habitat. In addition, the plan recommends refinement of restoration engineering and design.

Acquisition

The funding authorization that staff is recommending has two parts. The first part consists of a grant of \$11.2 million to the Trust for Public Land to acquire privately-owned properties in the portion of the Los Cerritos Wetlands complex that lies within the City of Long Beach, and to pay for costs associated with the acquisitions. The second part consists of authorization for Conservancy staff to contract for preparation of technical studies that may be needed to facilitate the acquisitions.

The Trust for Public Land is a private nonprofit organization that specializes in brokering acquisition of property interests for public agency purposes. Over the years, the Conservancy has worked with TPL on many important projects.

TPL is currently negotiating for acquisition of the properties known as “Bixby” and “Bryant.” The properties are adjacent to each other and, at 181 acres and 85 acres, respectively, together constitute most of the acreage within the wetland complex that can be restored to tidal action. A 10-acre property owned by Alamitos Bay Partners lies adjacent to Bixby and is also well-located for tidal wetland restoration, but is not yet the subject of acquisition negotiations. These properties and the rest of the wetland complex are described further in the “Site Description” section below.

The price that TPL would pay for any of the properties would be limited to fair market value as determined by an appraisal approved by the Conservancy’s Executive Officer. TPL is obtaining an update of the appraisal that the Conservancy and Bixby jointly commissioned in 1998. WCB has retained an appraiser to conduct appraisals of both the Bryant and Hellman properties.

According to the terms of the FY 2000/01 Budget Act, expenditure of the \$11 million appropriated to the Coastal Conservancy for “Los Cerritos wetlands acquisition and restoration” is subject to a dollar-for-dollar match by non-State funds. Both TPL and staff of the Conservancy are pursuing the matching funds. At the present time, the Port of Long Beach and, to a lesser extent, the Port of Los Angeles are the most likely funding partners. The interest of POLB stems from its need for the opportunity to restore certain portions of coastal wetlands to compensate for future filling of submerged habitat in San Pedro Harbor. POLA needs the opportunity to provide least tern nesting habitat to enable development of a current nest site in the harbor. Staff of several resource and regulatory agencies

have informally expressed the view that Los Cerritos could serve these port purposes.

As currently envisioned by TPL and Conservancy staff, the State Lands Commission would ultimately hold title to properties acquired under this grant authorization. In the past, SLC has held the view that if port funds generated from the use of sovereign land held in trust by the port are used to acquire property, then title must reside in SLC. Staff of SLC has informally expressed willingness to hold title at Los Cerritos if funds are also committed for habitat restoration. In order to meet that condition, TPL is working to either obtain the commitment of restoration funds or arrange for an interim titleholder.

Project Financing:	Coastal Conservancy:	
	Appropriation for Los Cerritos	\$11,000,000
	Appropriation for So. Cal. Wetlands Recovery Project	400,000
	Non-State match for	
	Los Cerritos General Fund monies*	<u>11,000,000</u>
	TOTAL**	\$22,400,000

* The FY 2000/01 appropriation to the Conservancy of \$11,000,000 from the General Fund for "Los Cerritos Wetlands Acquisition or Restoration" requires a 1:1 match from a non-State source.

** Additional funds will be needed to complete all of the property acquisition and habitat restoration at Los Cerritos. At the present time, the Port of Long Beach appears likely to be a major source of funds for acquisition and restoration of portions of the wetlands complex that are suitable for satisfying its need for mitigation credit. Similarly, the Port of Los Angeles would be a source of funds for acquisition and restoration attributable to providing least tern nesting habitat. Preliminary engineering suggests that the inland portion of the Los Cerritos Wetlands complex and the Hellman property may be more suitable for seasonal or other freshwater wetlands than for tidal wetlands. If that is the case, then sources of funds other than the ports will be needed in the future. Potential alternative sources include the Conservancy and its partner agencies in the Southern California Wetland Recovery Project, a special Congressional appropriation such as is being sought by U.S. Representative Stephen Horn, and certain litigation settlement funds.

Site Description: The Los Cerritos Wetlands complex adjoins the lower reach of the San Gabriel River, where the river mouth migrated back and forth across the coastal plain before it was confined to a flood control channel. Most of the area restorable to tidal action lies upcoast of the river in the City of Long Beach, which is in Los Angeles County; while most of the area that is more feasible for restoration to seasonal and other freshwater wetlands lies down coast of the river in Seal Beach and in an unincorporated area of Orange County. The properties that are the subject of this staff recommendation are within the coastal zone in the City of Long Beach.

Prior to channelization of the river, the Los Cerritos Wetlands complex included freshwater and brackish wetlands in its inland areas and saltmarsh closer to the ocean. The size and configuration of the wetlands were subject to occasional major changes when the river channel migrated during flood events. An aerial photo taken in 1927 shows the wetlands covering approximately 1,500 acres.

Today, the wetlands occur in degraded patches with a total area of perhaps 200 acres. In addition to containment of the San Gabriel River, the development that has reduced the size of the historic wetland complex includes placement of fill and excavation of channels and basins for oil field, commercial, residential, and marine-related recreation purposes. The subject properties are each the site of oil production facilities, with remnants of saltmarsh remaining within a grid of levees. The Bixby property also has a 20-acre piece of saltmarsh that receives full tidal action via Los Cerritos Channel.

Project History: The historic and existing wetlands in the Los Cerritos complex have been sought by public agencies and environmentalists for habitat protection and restoration for many years. Until recently, private landowners on both sides of the San Gabriel River had been pursuing approval for commercial, residential, and recreation development in and around the wetlands. In the early 1990s, the Port of Long Beach tried to obtain opportunities to restore wetlands in the area for mitigation credit, but were deterred by the owners' development plans.

The Port's keen interest in obtaining mitigation credits prompted it to study the feasibility of restoring tidal wetlands on both sides of the river. First, it had engineers work with resource agency staff to explore restoration on the Hellman property. Their conceptual study indicates that, while feasible, existing infrastructure would render tidal restoration on that property difficult and

relatively expensive. More recently, the Port engaged engineers to draft a series of alternative configurations for restoring tidal wetlands on the Bixby property and to begin studying the associated hydraulics. These studies identified less costly measures for restoration on the Bixby property, and also suggest a potential channel connection onto the Bryant property. Certain upland areas could be improved for least tern nesting.

Over the last several years, the three major private landowners became willing--each for his own reason—to discuss selling to public agencies intending to enable wetland restoration. The Board of Governors of the Southern California Wetland Recovery Project has identified acquisition of the properties as a top priority. In June 1999, the Conservancy entered into an option to purchase 181 acres of the Bixby property. The option was negotiated in consultation with the Port of Long Beach, which was the prospective major source of funds for acquisition, and the State Lands Commission, which was the prospective titleholder. Under the terms of the option, if the Coastal Commission did not approve a permit for exploratory drilling on the property, then Bixby did not have to complete certain tasks essential to the Conservancy's interests. The Commission denied an application for a drilling permit and the option expired at the end of December 2000 without the Conservancy being able to exercise.

During the option period, the Trust for Public Land became engaged in promising discussions with the owners of the adjacent Bryant property regarding acquisition for wetland restoration. In order to avoid the possibility of conflicting negotiations, Conservancy staff thought it prudent to step aside and allow TPL to negotiate both acquisitions. The Wildlife Conservation Board is in negotiations for purchase of the third major private property at Los Cerritos, which is owned by the Hellman Ranch Company.

Meanwhile, last May the Governor proposed an addition of \$11 million from the General Fund to the Conservancy's FY 2000/01 budget for "Los Cerritos wetlands acquisition or restoration." The Legislature approved the appropriation, which includes a stipulation that the funds be matched by non-State monies. The Ports of Long Beach and Los Angeles are prospects for providing the match. Both are still very interested in obtaining mitigation credit through restoration at Los Cerritos and, as with the former option agreement, are being factored into the negotiations. Federal funds and the proceeds of a settlement agreement are other possible sources of matching funds.

PROJECT SUPPORT: The 17 state and federal agencies that comprise the Southern California Wetlands Recovery Project have identified acquisition of the major privately-owned properties with the Los Cerritos Wetlands complex as a high priority. The Governor and the Legislature provided the Conservancy \$11 million from the General Fund in the FY 2000/01 budget to accomplish "Los Cerritos acquisition or restoration."

**CONSISTENCY WITH
CONSERVANCY'S
ENABLING LEGISLATION:** The proposed authorization is consistent with Chapter 6 (resource enhancement) of the Conservancy's enabling legislation, Division 21 of the Public Resources Code. Acquisition and restoration fish and wildlife habitat on properties within the Los Cerritos Wetlands complex would help to achieve the purposes set forth in Section 31251, to assemble parcels of land which have suffered a loss of natural and scenic values to improve resource management, relocate improperly located or designed improvements and take other corrective measures to enhance the area's natural and scenic character. Consistent with Section 31251, the project would entail awarding a grant to a nonprofit organization, the Trust for Public Land, for a project that seeks to remedy loss of natural and scenic values because of natural or human-induced events. Public Resources Code Section 31253 provides that the Conservancy "may provide up to the total cost of any coastal resource enhancement project. . . ." Staff is recommending that the Conservancy contribute just over 50 percent of the cost of acquiring certain properties to enable wetland restoration at Los Cerritos. Consistent with Section 31258, and in the absence of a certified LCP, staff will submit the Los Cerritos Wetlands Enhancement Plan to the Coastal Commission for a determination of conformity with the Coastal Act.

**CONSISTENCY WITH
CONSERVANCY'S
PROJECT SELECTION
CRITERIA & GUIDELINES:** The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

Required Criteria

Promotion of the Conservancy's statutory programs and purposes: See "Consistency with Conservancy's Enabling Legislation" above.

Consistency with purposes of the funding source(s): Governor and the Legislature provided the Conservancy \$11 million from the General Fund in FY 2000/01 for "Los Cerritos wetlands acquisition or restoration," with the requirement that the funds be matched by funds from a non-State source. The proposed project would entail acquisition of historic and existing wetlands at Los Cerritos for the purpose of enabling habitat restoration. Disbursement would be contingent upon obtaining the 1:1 match. It is anticipated that the additional \$400,000 that staff is recommending for costs associated with the acquisition be drawn from an appropriation for the Southern California Wetlands Recovery Project, which has identified the Los Cerritos acquisitions as a priority.

Cooperation and Support: See "Project Support" above.

Location: The portion of the Los Cerritos Wetlands that is the subject of the proposed authorization lies within the coastal zone.

Need: The Los Cerritos properties that are privately-owned must be acquired in order to enable restoration of fish and wildlife habitat. The Legislature has appropriated \$11 million to the Conservancy specifically for acquisition or restoration of the Los Cerritos wetlands. The appropriation requires a 1:1 non-state match and will not be expended until such a match is obtained.

Greater-than-local interest: Los Angeles County has lost over ninety percent of its coastal wetlands. Acquisition of the private properties within the City of Long Beach portion of the Los Cerritos Wetlands would enable restoration of some 275 acres of tidal wetlands, providing critical habitat for state- and federally-listed threatened and endangered species.

Additional Criteria

Urgency: The urgency of the project derives from the need to restore coastal wetlands to support the threatened and endangered species and to carry out the intent of the Governor and Legislature in appropriating \$11 million to the Conservancy for "Los Cerritos wetlands acquisition or restoration."

Leverage: Disbursement of \$11 million would be contingent upon obtaining a 1:1 match from non-State sources.

Readiness: proposed grantee, the Trust for Public Land, is an organization that specializes in brokering acquisitions of property interests for public purposes. It is in negotiations with the two major private property owners in the project area.

CONSISTENCY WITH
THE COASTAL ACT:

The project is consistent with Section 30230 of the California Coastal Act (Division 20 of the Public Resources Code), which states that “(m)arine resources shall be maintained, enhanced, and, where feasible, restored.” In authorizing disbursement of funds to the Trust for Public Land for acquisition of property within the Los Cerritos Wetlands complex, with deed restrictions limiting uses to those consistent with wetland habitat, the Conservancy is taking a necessary step toward accomplishing protection of remaining coastal wetlands and enable restoration.

COMPLIANCE

WITH CEQA: The Los Cerritos Wetlands Enhancement Plan recommends acquisition of property to enable protection and restoration of wetland habitat, and comprehensive studies to attain that objective. Acquisition of the subject property is categorically exempt from CEQA review in that it involves transfer of ownership or interest in land to preserve fish and wildlife habitat (14 California Code of Regulations Section 15313) and to preserve open space (14 California Code of Regulations Section 15325).

EXHIBIT 2

Los Cerritos Wetlands Enhancement Plan

LOS CERRITOS WETLANDS ENHANCEMENT PLAN

Introduction

The Los Cerritos Wetland complex on the border of Los Angeles and Orange Counties affords the opportunity to restore some 600 acres of saltmarsh, seasonal wetlands, and other freshwater wetlands. The Southern California Wetland Recovery Project has identified the acquisition of private properties at Los Cerritos to enable wetland restoration as a priority. Staff of the Coastal Conservancy has prepared the Los Cerritos Wetlands Enhancement Plan in order to provide administrative context for the Coastal Conservancy to disburse funds such acquisitions.

Site Description

The Los Cerritos Wetlands complex adjoins the lower reach of the San Gabriel River, where the river mouth migrated back and forth across the coastal plain before it was confined to a flood control channel. Most of the area restorable to tidal action lies upcoast of the river in the City of Long Beach, which is in Los Angeles County; while most of the area that is more feasible for restoration to seasonal and other freshwater wetlands lies down coast of the river in Seal Beach and in an unincorporated area of Orange County.

Prior to channelization of the river, the Los Cerritos Wetlands complex included freshwater and brackish wetlands in its inland areas and saltmarsh closer to the ocean. The size and configuration of the wetlands were subject to occasional major changes when the river channel migrated during flood events. An aerial photo taken in 1927 shows the wetlands covering approximately 1,500 acres.

Today, the wetlands occur in degraded patches with a total area of perhaps 200 acres. In addition to containment of the San Gabriel River, the development that has reduced the size of the historic wetland complex includes placement of fill and excavation of channels and basins for oil field, commercial, residential, and marine-related recreation purposes. The properties remaining in private ownership are each the site of oil production facilities, with remnants of saltmarsh remaining within a grid of levees. A 20-acre saltmarsh that receives full tidal action via Los Cerritos Channel is all that remains of the natural system.

Recommendations

1. Public agencies or private nonprofit organizations should acquire sufficient interests in the privately-owned properties within the Los Cerritos Wetlands complex to enable protection and restoration of wetlands and associated habitat.
2. When access becomes available to the properties within the wetlands complex for this purpose, comprehensive studies should be undertaken to determine the best approach to restoring wetlands and associated habitat.